

SAN LUIS COASTAL UNIFIED SCHOOL DISTRICT
SUPERINTENDENT EMPLOYMENT AGREEMENT

This Employment Agreement ("Agreement") is made and entered into by and between the Governing Board of the San Luis Coastal Unified School District ("District" or "Board") and Eric Prater ("Superintendent") and is dated for reference purposes as of June 18, 2019.

1. **Term.**

District hereby employs Superintendent for a term of four (4) years beginning on July 1, 2019 and terminating on June 30, 2023, subject to the terms and conditions of this Agreement.

2. **Superintendent's Duties.**

a. **General Duties.** Superintendent shall competently and satisfactorily perform the duties of Superintendent as prescribed by this Agreement, the laws of the State of California, Board Policy, and the job description for the position of Superintendent. Superintendent shall be chief executive officer and secretary of the Board. Superintendent shall have primary responsibility for execution of board policy, responsibility for the duties prescribed by Education Code section 35035, and responsibility for any duties authorized by the Board pursuant to Education Code section 17604. As appropriate, the Superintendent may use the resources of other staff to carry out these duties.

b. **Personnel Matters.** Superintendent shall have primary responsibility for all personnel matters including selection, assignment, discipline, and dismissal of employees, subject to the approval of the Board. The Board shall refer all complaints and concerns made to individual members of the Board, or the Board as a body, for review and action by the Superintendent.

c. **Administrative Functions.** The Superintendent, as the chief executive officer, shall: (1) review all policies adopted by the Board and make appropriate recommendations to the Board; (2) periodically evaluate or cause to be evaluated all District employees as provided by California law and board policy; (3) advise the Board of all possible sources of funds that might be available to implement present or contemplate District programs; (4) assume responsibility for those duties specified in Education Code section 35250 and other provisions of law; (5) endeavor to maintain and improve his professional competence by all available means, including, but not

limited to, subscription to and reading of appropriate periodicals; attendance at State and regional professional conferences and meetings; and membership in appropriate professional associations; (6) establish and maintain a positive community, staff and Board relations; (7) serve as the Board's representative with respect to all employer-employee matters and make recommendations to the Board concerning those matters; (8) recommend to the Board, District goals and objectives for the ensuing school year; and (9) unless unavoidably detained, or with prior Board approval, attend all regular and special meetings of the Board with the exception of those closed sessions in which the Board discusses matters related to the Superintendent's employment.

d. **Board-Superintendent Responsibilities.** Although the Superintendent, as chief executive officer of the Board, shall have primary responsibility for execution of board policies, the Board shall retain primary responsibility for formulating and adopting board policies. In addition, while the Superintendent shall have primary responsibility for assignment and transfer of employees and for selecting candidates for consideration for employment, the Board alone shall have the authority to hire and dismiss District personnel. The parties agree, individually and collectively, not to interfere with or usurp the primary responsibilities of the other party and the Board, individually and collectively, shall promptly refer all criticisms, complaints, and suggestions called to its attention to the Superintendent for study and correction, if an issue of policy is involved, for recommendation to the Board. The Superintendent shall report back to the Board after handling complaints referred by the Board or individual members of the Board.

e. **Board-Superintendent Relations.** The parties acknowledge the importance of creating and projecting to students, staff, parents, and the community a positive and professional image of the Board, the Superintendent and the District. Thus, to avoid damage to the Board's and the Superintendent's image and credibility, and as not to lessen each other's ability to perform effectively, the parties agree to conduct the business of the District by communicating and interacting in a manner that is professional and respectful. Board concerns, criticisms and dissatisfaction with the Superintendent's performance shall therefore be addressed through closed session discussions or via the evaluation process. Superintendent's concerns, criticisms and dissatisfaction with the Board shall likewise be addressed with professionalism and respect.

f. **Professional Development.** The Superintendent shall endeavor to maintain and improve Superintendent's professional competence by a variety of means, including, without

implied limitation, subscription to and reading of appropriate periodicals, and joining and participating in appropriate professional associations and their activities.

3. **Salary.**

a. **Base Salary.**

As contemplated by the terms of the Addendum to the Superintendent Employment Agreement dated December 13, 2016 ("Home Loan Addendum), the Superintendent did not receive a salary increase for the 2016-17, 2017-18 and 2018-19 school years. Therefore, effective July 1, 2019, the Superintendent's annual base salary shall be two hundred nineteen thousand five hundred seventy-eight dollars (\$219,578) for the 2019-2020 school year. This annual salary provides the Superintendent with the same two percent (2%) increase granted all other District employees.

Effective July 1, 2020, for the 2020-21 school year, Superintendent shall receive the same one percent (1%) salary increase granted to the District's certificated unit members. In addition, Superintendent shall receive the same one percent (1%) salary increase granted to the District's certificated unit members subject to the same contingencies (e.g. SB 1090 funding and no closure of Diablo Canyon/impact on property taxes).

Effective July 1, 2021, for the 2021-22 school year, Superintendent shall receive the same one percent (1%) salary increase granted to the District's certificated unit members. In addition, Superintendent shall receive the same one percent (1%) salary increase granted to the District's certificated unit members subject to the same contingencies.

b. **Merit Based Step Increase.** As contemplated by the terms of the Addendum to the Superintendent Employment Agreement dated December 13, 2016 ("Home Loan Addendum), the Superintendent did not receive a step increases during the 2017-18 or the 2018-19 school years. The Superintendent will also not receive a step increase for the 2019-20 school year. However, commencing with the 2020-21 school year, a step increase of two percent (2%) shall be applied to the Superintendent's base salary if the Superintendent receives a positive performance evaluation from the Board for the prior school year. This two percent (2%) increase represents the approximate increase received by certificated staff for step advancement each year. This step increase shall not be automatic but is expressly subject to receipt of a positive written evaluation. Step increases for management employees are limited to ten (10) years; therefore, irrespective of the number of Agreement extensions that may occur, the

Superintendent shall not be entitled to any step increases after ten (10) years of service. The parties agree that the Superintendent shall be deemed to be on Step 7 in the 2020-21 school year as a result of Superintendent's waiver of his right to receive step increases in accordance with the terms of the Home Loan Addendum.

c. **Salary Changes by Mutual Consent.** The Superintendent's salary is considered to be indefinite and subject to ongoing negotiations with the Board. Accordingly, the Board reserves the right to change the Superintendent's salary for any year of this Agreement with the written consent of the Superintendent. Any change in salary shall not extend the term of this Agreement nor shall it constitute the creation of a new Agreement.

d. **Salary Payment Process.** The Superintendent's salary shall be payable in twelve (12) approximately equal monthly payments, less all applicable deductions and withholdings required by law or authorized by the Superintendent.

e. **Effective Date.** Salary increases shall be effective on any date ordered by the Board in accordance with Education Code section 35032. The Superintendent's salary is understood to be "indefinite or uncertain;" therefore, the Board reserves the right to grant the Superintendent retroactive salary increases notwithstanding anything in the California Constitution that might be interpreted to the contrary.

4. **Benefits.**

a. **General.** The Superintendent shall only be entitled to the fringe benefits provided for by this Agreement. Unless otherwise expressly stated in this Agreement, the Superintendent shall not be entitled to the fringe benefits provided to other employees.

b. **Health Benefits.** The District shall provide the Superintendent the same contribution toward health and welfare benefits, on the same terms and conditions that is provided to other management employees. Should the Superintendent incur premiums for plans offered through the District in excess of the District's contribution, the Superintendent agrees to pay such excess premium costs on a monthly basis via payroll deduction. The Superintendent shall be responsible to pay all co-pays, deductibles, and other costs in the same manner as other management employees, as those costs may change from time-to-time. No District contribution may be received in cash or used for the purchase of non-District provided benefits.

c. **Health Benefits at Retirement.** The District provides a contribution toward health insurance benefits for certificated bargaining unit retirees who have served the District for

at least ten (10) years and retire after age fifty-five (55). The District's contribution ceases when the retiree attains age sixty-five (65). The District's annual health benefit contribution for eligible retirees during this period of time is equal to the annual contribution made for active employees as that contribution may change from time-to-time. Accordingly, the Superintendent shall be entitled to receive the same annual contribution that the District makes on behalf of its certificated bargaining unit employees, as that contribution may change from time-to-time, until the Superintendent attains age sixty-five (65), if the Superintendent is at least fifty-five (55) years old and has served the District for at least ten (10) years as of the date of his resignation from the District and retirement with the California State Teachers Retirement System (CalSTRS). All District contributions toward retiree health insurance benefits and all District costs shall cease when Superintendent attains age sixty-five (65). If the Superintendent uses this benefit, the Superintendent shall be responsible to pay all co-pays, deductibles, and other costs in the same manner as other retired management employees.

d. **Term Life Insurance.** The District shall provide the Superintendent, at District cost, with a term life insurance policy having a death benefit amount equal to \$1,000,000. In accordance with the terms of the December 13, 2016 Addendum to the Superintendent Employment Agreement ("Home Loan Addendum"), the District shall be named as the beneficiary for one-half of the proceeds of the policy and the Superintendent shall name the beneficiaries for the remaining one-half of the proceeds of the policy. The Superintendent shall be solely responsible for all discretionary decisions related to the policy. The District's obligations under this Agreement shall be ministerial in nature. The District's obligation to fund this policy shall cease when this Agreement terminates for any reason; however, the District retains the right to maintain a life insurance policy on the Superintendent if, in the District's sole discretion, it is necessary to protect the District's interests as the holder of the first deed of trust on the Superintendent's home.

e. **Tax Deferred Compensation Plans.** The Superintendent shall be entitled to use the District's IRC Section 125 plan and its Section 403b plan in any manner allowed by law on the same terms and conditions that such plans are made available to other management employees.

f. **Whole Life Insurance.** The Superintendent shall be entitled to participate in the District-paid whole life insurance conversion plan on the same terms and conditions as other management employees, as those terms and conditions may change from time-to-time.

g. **Personal Necessity Leave.** The Superintendent may use personal necessity and personal business days up to a combined total of fifteen (15) days annually from the Superintendent's accumulated, unused sick leave.

h. **Catastrophic Leave Program.** The Superintendent may participate in the catastrophic leave program upon the same terms and conditions as negotiated with other bargaining units in the District.

i. **Transportation Allowance.** The Superintendent is required to have a vehicle available at all times to perform the services and duties of the position. Therefore, the Superintendent shall be entitled to receive a monthly automobile allowance of five hundred dollars (\$500.00) for the acquisition, use, maintenance and insurance of an automobile for business related travel in San Luis Obispo County, irrespective of the number of miles traveled on District business. The Superintendent shall be solely responsible for all expenses to use, maintain, operate and insure the automobile. The Superintendent's receipt of this automobile allowance shall be in lieu of any entitlement to mileage reimbursement for in-county travel. No documentation is required in order to receive this allowance and the Superintendent shall have discretion regarding the expenditure of this allowance. Business related travel outside of the county shall be reimbursed at the District's regular mileage reimbursement rate in effect at the time the expenses are incurred. Payment of this automobile allowance shall not be considered creditable compensation for CalSTRS retirement purposes, unless otherwise permitted by law.

j. **Technology Allowance.** In recognition of Superintendent's need to acquire and maintain personal technology devices to perform the duties of the position, such as a laptop computer, cellular telephone, personal data assistant, internet access and related technologies, Superintendent shall receive an allowance of three hundred dollars (\$300) per month. The Superintendent shall use all Technology Devices in accordance with District policies and legal requirements. No documentation is required in order to receive this allowance and the Superintendent shall have discretion regarding the expenditure of this allowance. Payment of this allowance shall not be considered creditable compensation for CalSTRS retirement purposes, unless otherwise permitted by law.

k. **Professional Development/Dues.** The Superintendent shall maintain and improve the Superintendent's professional competence. In this regard, the District shall bear the reasonable expense of subscriptions to appropriate professional journals and publications, memberships in professional organizations, including the Association of California School Administrators (ACSA), and attendance at state and local conferences, with prior notice to the Board. Out-of-state conferences may be attended, at District cost, with the prior Board approval or Board ratification.

l. **Expense Reimbursement.** The District shall reimburse the Superintendent for actual and necessary expenses incurred by the Superintendent within the scope of his employment (except for mileage reimbursement within San Luis Obispo County) so long as such expenses are permitted by the District policy or incurred with approval of the Board. For reimbursement, the Superintendent shall submit and complete expense claims in writing in accordance with the District's policies, rules, and regulations. The Superintendent's expense claims shall be supported by appropriate written documentation verifying the contents of the report prior to authorization for reimbursement.

m. **Supplemental Retirement Plan/Deferred 403b Contributions.** Under the terms of the Superintendent's December 15, 2015 employment agreement, the Superintendent was entitled to receive \$28,000 if he was employed as Superintendent on July 1, 2019. However, under the terms of the Home Loan Addendum, the Superintendent waived the right to receive this payment. Thus, even though the Superintendent will be employed as Superintendent on July 1, 2019, the District will not make any payment into the Superintendent's 403b account in July 2019. The parties now desire to re-initiate a section 403b retention program for the Superintendent under the terms of this Agreement.

If Superintendent is employed as the District's Superintendent on July 1, 2024, then the District agrees to contribute twenty-eight thousand dollars (\$28,000) to a supplemental retirement plan authorizing such contributions under Internal Revenue Code section 403(b), the "Plan." The Superintendent shall have no right to receive this contribution in cash. The Plan documents shall meet all requirements of law. Funds in the Plan shall be invested in such investment vehicles as are authorized by law. The Superintendent shall direct the investment of funds under the Plan among options authorized by the Plan. The District shall have no liability for any investment decisions made by the Superintendent, for the designation of beneficiaries, or

for any other discretionary decisions made by the Superintendent. The District's contribution to the Plan shall not exceed the amount authorized by law. The District's contribution shall be paid in July 2024. If the District is not able to pay the amount owed in its entirety for that calendar year, the remainder due shall be paid in January 2025. If Superintendent's employment terminates for any reason prior to July 1, 2024, the Superintendent shall not be entitled to any District paid supplemental retirement plan contributions under this provision. This Supplemental Retirement Plan Contribution shall not be considered a "vested" benefit.

n. **Sick Leave.** The Superintendent shall earn the same number of sick leave days as the District's certificated employees, currently fifteen (15) days of sick leave per year. In no event shall the District make a cash payment to the Superintendent for accumulated and unused sick leave; however, excess sick leave may be credited for retirement purposes to the extent permitted by law and CalSTRS.

o. **Holidays.** The Superintendent shall be entitled to all legal and local holidays as set forth in the District-adopted calendar for all 12-month employees of the District, as the number of holidays may change from time-to-time.

p. **Work Year/Vacation.** The Superintendent shall work twelve (12) full months each year; however, the Superintendent shall be entitled to twenty-four (24) days annual vacation with pay, exclusive of holidays. The Superintendent's entitlement to vacation days shall be accrued on a month-to-month basis. If this Agreement expires or is terminated for any reason, the Superintendent shall be compensated for unused, accrued vacation at the salary rate effective at the time of termination. Superintendent is encouraged to take all vacation days during the fiscal year in which the vacation is earned. At no time shall Superintendent accrue more than forty (40) days of vacation; therefore, vacation time may be accumulated from year-to-year but in no event will more than forty (40) days of unused vacation be accrued or paid at the expiration or termination of this Agreement. Annually, the Superintendent may elect to receive compensation in lieu of taking up to ten (10) days of accrued, unused vacation. Therefore, the Superintendent shall be required to render service on 223 days each work year. For purposes of determining the per diem rate for compensation of accrued, unused vacation, the Superintendent's annual base salary in the year of vacation accrual shall be divided by 223. Should the Superintendent cease employment with the District with a negative vacation balance due to having used vacation in advance of its accrual (which may be done with written approval of the Board), it shall be

deducted from any salary owed at the then current per diem rate during the Superintendent's last months of employment or, at the District's election, be repaid by the Superintendent following termination of employment.

q. **Outside Professional Activities.** Superintendent may undertake outside professional activities, including consulting, speaking and writing. These outside professional activities may be performed for consideration, provided these activities do not interfere with the normal duties of the Superintendent on behalf of the District and if the Superintendent performs all outside professional activities outside of Superintendent's normal work year.

5. **Evaluation.**

a. **Yearly Evaluation Initiated by Superintendent.** The Board shall devote a portion of at least one meeting annually to discuss and evaluate the performance and working relationship between the Superintendent and the Board. This evaluation shall be based on the position description and any mutually agreed upon District goals and objectives, which shall be jointly developed by the Superintendent and the Board by October 15 of each school year. To initiate the evaluation process, the Superintendent shall inform the Board President in writing each March of the need for an evaluation.

b. **Self-Evaluation.** To assist the Board in the evaluation process, the Superintendent shall complete, no later than April each year, a written self-evaluation. This self-evaluation shall also include a review of any action plans presented to the Superintendent at previous evaluations, and shall include a report to the Board regarding the "State of the District."

c. **Board Review.** Upon receipt of the self evaluation, including the review of action plans and the Board's "State of the District" report from the Superintendent, the Board shall complete a written evaluation report in closed session meetings of the Board. Upon completion, the Board shall meet with and provide a copy of the evaluation report to the Superintendent in a closed session board meeting. Based upon findings specified in the evaluation report, the Superintendent, in collaboration with the Board, will prepare an action plan, if necessary, which will address areas identified as needing clarification, emphasis or improvement. The action plan will be included as an addendum to the evaluation report. If a jointly prepared action plan can not be agreed upon, the action plan shall be issued by the Board in its sole discretion. The Superintendent and the Board shall sign the evaluation report and

action plan. However, failure of the Superintendent to sign the evaluation or action plan shall have no legal effect upon the Superintendent's duty to implement the action plan.

d. **Timing.** Following notice by the Superintendent and the self-evaluation, a completed evaluation shall be prepared at least once each school year in accordance with a time line set by the Board, in consultation with the Superintendent. The Board shall endeavor to complete the evaluation by May 15 of each year. If performance deficiencies become a concern, nothing shall prevent the Board from conducting more than one (1) formal evaluation each school year. The final evaluation, the Superintendent's self-evaluation, the State of the District report, action plans and all related documents shall be placed in the Superintendent's personnel file.

e. **Agreement Extension/Salary Adjustment.** During each annual evaluation, the Board shall affirmatively determine if the Superintendent's evaluation is positive. If the evaluation is positive, the Superintendent's Agreement shall be extended by one (1) school year and the Superintendent shall be entitled to the two percent (2%) step increase up to the maximum number of steps allowed. If the evaluation is not positive or if the evaluation is not completed prior to June 30, the Superintendent's salary and the term of the Agreement shall remain unchanged.

f. **Evaluation Rating.** At the conclusion of each evaluation, the Board shall determine, in writing, on the Superintendent's written evaluation form, whether or not the evaluation is deemed to be "positive" so that an affirmative decision is made regarding the Superintendent's entitlement to a step increase and an Agreement extension. The parties agree that the Superintendent's written evaluation form shall contain the following statement:

"The Board determines that the Superintendent's evaluation for the 20__-20__ school year is [positive/not positive] and he [is/is not] entitled to a two percent (2%) step increase and to a one (1) year Agreement extension. If the evaluation is positive, the parties agree that the Agreement is extended from _____ to _____."

If the evaluation is positive, the Board shall report the results of the evaluation in open session so that the public remains informed about the length of the Superintendent's Agreement and the Superintendent's salary.

g. **Outside Facilitator.** Whenever it is deemed desirable by the Governing Board and the Superintendent, an outside advisor may be selected by mutual agreement to facilitate discussion of the relationship of the Board and the Superintendent. The outside advisor shall be paid for by District.

h. **Compliance with Law.** The parties intend to comply with all applicable laws; however, if the term of this Agreement is interpreted by a court to have been automatically extended commensurate with an automatic increase in compensation in excess of the applicable consumer price index, the increase in compensation provided for that year shall not exceed the limit established by Government Code sections 3511.1 and 3511.2.

6. **Termination of Agreement.** This Agreement shall be terminated by any one of the following:

a. **Mutual Agreement of Both Parties.** This Agreement may be terminated at any time by mutual consent of the Board and the Superintendent.

b. **Death.** The death of the Superintendent terminates this Agreement.

c. **Resignation of the Superintendent.** The Superintendent may resign to retire or to seek other employment and terminate this Agreement by providing the District with ninety (90) calendar days' advance written notice.

d. **Non-Renewal of Agreement by District.** The Board may elect not to renew this Agreement upon its expiration for any reason by providing written notice to the Superintendent in accordance with Education Code section 35031 or other applicable provisions of law. If the Board fails to timely give such notice, this Agreement shall be extended only for a period of one year on the same terms and conditions set forth in this Agreement. The Superintendent shall inform each member of the Board of this notice requirement in writing no less than ninety (90) calendar days in advance of the expiration of this Agreement. Superintendent's failure to give the 90-day notice constitutes a material breach of this Agreement and cause for termination.

e. **Termination for Disability/Fitness for Duty Examination.** Upon request from the Board, the Superintendent shall obtain an examination. Following the examination, the Superintendent shall file the physician's report regarding the Superintendent's ability to perform the essential functions of the position with the Board. All non-insured costs of the annual examination shall be borne by the District. Upon request by the Board, the Superintendent shall undergo an examination by a District appointed physician. Prior to the examination, the

Superintendent agrees to execute District provided medical releases from all treating physicians authorizing the District appointed physician to review all medical records. The District appointed physician shall review this Agreement, the District's job description for the position, and be provided background information related to the duties of the position. The Superintendent shall submit all costs to the District's insurance carrier. All non-insured costs shall be borne by the District. The physician shall submit a confidential written report to the Board and the Superintendent addressing the Superintendent's fitness to perform the job. The physician's report shall specifically indicate whether or not the Superintendent has any physical or mental impairment that substantially limits the Superintendent's ability to perform the essential functions of the Superintendent's position. Only confidential medical information necessary to assess whether the Superintendent is able to perform the essential functions of the position shall be provided to the Board. If the Superintendent is determined to be a disabled employee under state or federal law, the physician's report shall indicate what reasonable accommodations, if any, may be available to allow the Superintendent to perform the essential functions of the position so that the District can make an informed decision about reasonable accommodations. If the District determines that the Superintendent is disabled and, following an interactive dialogue with the Superintendent, that the Superintendent is unable to perform the essential functions of the position, the parties agree that this Agreement may be terminated by the Board on six (6) months' written notice or the Superintendent obtaining CalSTRS disability benefits, whichever occurs first. Termination of this Agreement due to the Superintendent's inability to perform the essential functions of the position shall terminate the obligations of both parties under this Agreement.

During the pendency of the termination notice, the Superintendent shall exhaust all accumulated sick leave, vacation entitlements and all other paid leaves. Health and welfare benefits shall remain available to the Superintendent until the Superintendent's employment relationship with the District is ended.

f. **Termination for Cause.** The Board may terminate the Superintendent for: (1) acts done in bad faith to the detriment of the District; (2) refusals or failures to act in accordance with specific provisions of this Agreement or lawful Board directives; (3) breach of this Agreement; (4) unsatisfactory performance as established by at least two written evaluations conducted at least ninety (90) calendar days apart; (5) any grounds enumerated in Education

Code sections 44932, 44933, or 44939; (6) conviction of or a “nolo contendere” plea to a crime involving dishonesty, breach of trust, or physical or emotional harm to any person; (7) any act causing the suspension or revocation of any credential held by the Superintendent; or (8) inability to perform the essential functions of the position, with or without reasonable accommodation.

Notwithstanding Labor Code section 2924, the parties agree that the determination of cause shall be based upon the Board’s reasonable belief in the existence of good cause for termination. The existence of such good cause belief shall authorize the termination of this Agreement and shall extinguish all rights and duties of the parties under this Agreement. If such good cause belief exists, the Board shall meet with the Superintendent and shall submit a written statement of the grounds for termination and copies of written documents the Board believes support the termination. If the Superintendent disputes the charges, the Superintendent shall then be entitled to a conference before the Board in a closed session meeting. The Superintendent and the Board shall each have the right to be represented by counsel at their own expense. The Superintendent shall have a reasonable opportunity to respond to all matters raised in the charges. The conference with the Board shall not be an evidentiary hearing and neither party shall have the opportunity to call witnesses. If the Board, after considering all evidence presented, decides to terminate this Agreement, the Board shall provide the Superintendent with a written decision. The decision of the Board shall be final. The Superintendent’s conference before the Board shall be deemed to satisfy the Superintendent’s entitlement to due process of law and shall be the Superintendent’s exclusive right to any conference or hearing otherwise required by law. The Superintendent waives any other rights that may be applicable to this termination for cause proceeding with the understanding that completion of this hearing exhausts the Superintendent’s administrative remedies and then authorizes the Superintendent to contest the Board’s determination in a court of competent jurisdiction.

g. **Termination without Cause.** The Board may, for any reason, without cause or a hearing, terminate this Agreement at any time upon prior written notice to the Superintendent. Prior to terminating this Agreement without cause, the District shall communicate with the Superintendent about the Superintendent’s employment and the parties shall discuss whether the Superintendent’s employment relationship can be terminated by mutual agreement.

In consideration for exercise of this right, the District shall pay to Superintendent for the remainder of the unexpired term of this Agreement, or twelve (12) months, whichever is less, a sum equal to the difference between Superintendent's monthly base salary at the salary rate in effect during the Superintendent's last month of service and the amount which Superintendent earns from any other employment-related source (whether as employee, independent contractor, consultant or self-employed).

For purposes of this Agreement, the term "salary" shall include only the Superintendent's regular monthly base salary and shall not include the value of any other stipends, reimbursements or benefits received under this Agreement. Payments made pursuant to this early termination provision shall be made on a monthly basis. All payments made pursuant to this early termination provision shall be subject to all of District's regular payroll deductions and shall be treated as salary payments.

As a condition of payment, the Superintendent shall be obligated to seek other employment. Superintendent shall provide a monthly written statement to the Board President of efforts to secure such employment. If the Superintendent obtains other employment during this period, the Superintendent shall immediately notify the Board President in writing and submit evidence of all employment earnings each month. From the date that Superintendent obtains other employment forward, the District's monthly payments to the Superintendent shall be offset by an amount equal to the Superintendent's income from other employment sources during this period, whether such employment be as consultant, independent contractor or employee.

If the Superintendent is terminated without cause and elects to retire instead of fulfilling his obligation to seek other employment as set forth above, the parties agree that, effective upon the date of the Superintendent's retirement with the California State Teacher's Retirement System ("CalSTRS") or CalPERS, the District's obligations to make the payments described in this paragraph shall end. If Superintendent elects to retire, then Superintendent shall inform the Board, in writing, of Superintendent's intent to retire, the Superintendent shall file the required retirement documents with CalSTRS or CalPERS and, in a timely manner, provide copies of such documents to the Board President.

Subject to the District's insurance carriers' rules, requirements and restrictions, the Superintendent shall also be entitled to the same District contribution toward health benefits as the Superintendent was receiving at the time of his termination, for the remainder of the

unexpired term of this Agreement, a period of twelve (12) months, or until the Superintendent obtains other employment, whichever occurs first.

Any such termination shall be in writing, shall specify the effective date of the termination, and shall terminate all of the Superintendent's employment rights and entitlements with the District. The Superintendent shall execute a full release of claims against the District and its officers, agents and employees as a condition for receipt of the severance payment; otherwise, no severance payment shall be required and termination shall be effective nonetheless.

The parties agree that damages to the Superintendent which may result from the Board's early termination of this Agreement cannot be readily ascertained. Accordingly, the parties agree that the damage payments made pursuant to this early termination clause, along with the District's agreement to provide paid health benefits, constitutes reasonable liquidated damages for the Superintendent, fully compensates the Superintendent for all tort, Agreement, and other damages of any nature whatsoever, whether in law or equity, and does not result in a penalty. The parties agree that the District's completion of its obligations under this provision constitutes the Superintendent's sole remedy to the fullest extent provided by law. Finally, the parties agree that this provision meets the requirements governing maximum cash settlements as set forth in Government Code sections 53260, et seq.

h. **Termination for Inappropriate Fiscal Practices.** Notwithstanding any other provision of this Agreement to the contrary, if the Board believes, and subsequently confirms through an independent audit, that the Superintendent has engaged in fraud, misappropriation of funds, or other illegal fiscal practices, then the Board may terminate the Superintendent and the Superintendent shall not be entitled to any cash, salary payments, health benefits or other non-cash settlement as set forth above. This provision is intended to fulfill the requirement of Government Code section 53260.

7. **Notification by Superintendent Prior to Seeking Other Employment.** The Superintendent shall immediately notify the Governing Board if the Superintendent becomes a finalist for any other employment.

8. **Professional Development.** The Superintendent shall endeavor to maintain and improve Superintendent's professional competence by a variety of means, including, without implied limitation, subscription to and reading of appropriate periodicals, and joining and participating in appropriate professional associations and their activities.

9. **Abuse of Office Provisions.** In accordance with Government Code sections 53243 et seq., and as a separate contractual obligation, if the Superintendent receives a paid leave of absence or cash settlement and this Agreement is terminated for any reason, such paid leave or cash settlement shall be fully reimbursed to the District by the Superintendent if the Superintendent is convicted of a crime involving an abuse of office or the position of Superintendent. In addition, if the District funds the criminal defense of the Superintendent against charges involving abuse of office or position and the Superintendent is then convicted of such charges, the Superintendent shall fully reimburse the District all funds expended for the Superintendent's criminal defense.
10. **Annual Reporting Requirements.** Superintendent shall report the Superintendent's use of sick leave and vacation days in the same manner as all other District employees.
11. **Tax/Retirement Liability.** The District makes no representations or warranties with respect to any tax or retirement issues stemming from this Agreement. The District shall not be liable for any retirement or state/federal tax consequences to the Superintendent, any designated beneficiary, heirs, administrators, executors, successors or assigns of the Superintendent. The Superintendent shall assume sole responsibility and liability for all state and federal tax consequences and all retirement consequences of this Agreement, including, but not limited to, whether any form of compensation is creditable for purposes of retirement.
12. **Mediation.** The Superintendent and Board agree to make a good faith effort to settle any dispute that arises under this Agreement through discussion and negotiations. If the dispute is not resolved within thirty (30) days, the dispute shall be mediated unless the parties agree otherwise in writing. Both parties shall make a good faith effort to select a mediator and complete the mediation process within sixty (60) calendar days. If the parties cannot agree on a mediator, the mediator shall be appointed by the State Conciliation and Mediation Service or other agreeable mediation service. The mediator's fee, if any, shall be paid by the District. Each party shall bear its own attorney fees and costs. Any mediator selected by the parties shall have expertise in the area of the dispute and be knowledgeable in the mediation process. No person shall serve as mediator in any dispute in which that person has any financial or personal interest in the outcome of the mediation. The mediator's recommendation for settlement, if any, shall not be binding on the parties. Mediation pursuant to this provision shall be private and confidential. Only the parties and their representatives may attend any mediation session. Other persons may attend

only with the written permission of both parties. All persons who attend any mediation session shall be bound by the confidentiality requirements of California Evidence Code section 1115 et seq. and shall sign an agreement to that effect.

13. **General Provisions.**

a. **Governing Laws and Venue.** This Agreement, and the rights and obligations of the parties, shall be construed and enforced in accordance with the laws of the State of California. The parties also agree that, in the event of litigation, venue shall be the appropriate state court located in San Luis Obispo County, California.

b. **Severability.** If any term or provision of the Agreement shall, to any extent, be held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining terms and provisions of the Agreement shall continue in effect.

c. **Construction.** This Agreement shall not be construed more strongly against either party regardless of who is responsible for its preparation.

d. **Relationship to Home Loan Addendum and Prior Employment Agreement.** This Agreement supersedes and replaces the December 2015 Employment Agreement between the parties; however, the Home Loan Addendum shall remain in effect and the parties anticipate the \$50,000 home loan reduction of principal amount of the loan. Therefore, this Agreement, along with the Home Loan Addendum, contain all the understandings and agreements between the parties. There are no oral understandings, terms or conditions, and neither party has relied upon any representations, express or implied, not contained in this Agreement and the Home Loan Addendum.

e. **Amendments.** This Agreement cannot be changed or supplemented orally. It may be modified or superseded only by a written instrument executed by both parties.

f. **Non-Assignment.** This is an Agreement for personal services. The Superintendent shall have neither the right nor the power to transfer any rights under this Agreement.

g. **Board Approval.** The parties agree that the effectiveness of this Agreement is contingent upon approval by the District's Governing Board.

h. **Binding Effect.** This Agreement shall be for the benefit of and shall be binding upon all parties and their respective successors, heirs and assigns.

i. **Execution of Other Documents.** All parties to this Agreement shall cooperate fully in the execution of any other documents and in the completion of any additional actions that may be necessary or appropriate to give full force and effect to the terms of this Agreement.

j. **Exclusivity.** To the maximum extent permitted by law, the parties agree that the employment relationship between the District and the Superintendent shall be governed exclusively by the provisions of this Agreement and the Home Loan Addendum and not by Board policies, administrative regulations, management handbooks or similar documents.

k. **Management Hours.** The parties recognize that the demands of the position will require the Superintendent to average more than eight (8) hours a day, five (5) days per week, and/or more than 40 hours per week. The parties agree that Superintendent shall not be entitled to overtime compensation.

l. **Independent Review.** The Parties have had the opportunity to obtain, and have obtained, independent legal or other professional advice with regard to this Agreement, including tax and retirement consequences. The Parties acknowledge that the terms of this Agreement have been read and fully explained and that those terms are fully understood and voluntarily accepted.

m. **Execution.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Photographic copies of such signed counterparts may be used in lieu of the originals for any purpose.

n. **Public Record.** The parties recognize that, once final, this Agreement is a public record and must be made available to the public upon request.

o. **Waiver.** Any waiver of any breach of any term or provision of this Agreement shall be in writing and shall not be construed to be a waiver of any other breach of this Agreement.

p. **Integration.** This Agreement constitutes a complete and exclusive statement of the understanding between the parties with respect to its subject matter. This Agreement supersedes any and all other prior communications between the parties, whether written or oral. All prior agreements between the Board and the Superintendent and all prior promises, negotiations or representations related to the subject matter of this Agreement not expressly set forth in this Agreement are of no force and effect.

q. **Indemnity.** As required by Government Code section 995, the District shall defend and indemnify the Superintendent from any and all demands, claims, suits, actions, and legal proceedings brought against the Superintendent in the Superintendent's individual or official capacity as an agent and employee of the District to the extent required by law. Upon retirement from the District, the Superintendent will continue to be entitled to defense and indemnity for any actions taken against him to the extent required by law.

Dated: June __, 2019

SAN LUIS COASTAL UNIFIED SCHOOL DISTRICT


Ellen Sheffer, Board President

ACCEPTANCE OF OFFER


I accept the above offer of employment and the terms and conditions thereof and will report for duty as directed above.

I have not entered into an Agreement of employment with the Governing Board of another school district or any other employer that will in any way conflict with the terms of this Employment Agreement.

I certify under penalty of perjury under the laws of the State of California that all statements contained in my application for employment and other documents I submitted in connection with my application are true and complete. I understand that if the District discovers false, incomplete, or misleading statements on my application or any other documents I have submitted in connection with my application, such statements shall justify immediate dismissal for cause.

I hold legal and valid administrative and teaching credentials each of which are or will be recorded with the Office of the Superintendent of Schools of San Luis Obispo County before receipt of my first payroll warrant. I further certify that I meet the qualifications of Education Code section 35028.

Dated: June 19, 2019


Eric Prater
Superintendent

This Agreement was approved by the Governing Board in open session at a regularly called meeting held on June 18, 2019.